

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE DILLE FAMILY TRUST,
Plaintiff,

CIVIL ACTION

v.

THE NOWLAN FAMILY TRUST,
Defendant.

NO. 15-6231

ORDER

AND NOW, this 16th day of September, 2016, upon consideration of Defendant's Motion to Dismiss Counts II-IV of Plaintiff's Second Amended Complaint (ECF No. 32); Plaintiff's Response in Opposition thereto (ECF No. 37); Defendant's Reply in Support thereof (ECF No. 32); Plaintiff's Supplemental Response in Opposition (ECF No. 38); Defendant's Supplemental Reply (ECF No. 39); after oral argument and for the reasons set forth in the Court's Opinion of September 16, 2016 (ECF No. 54), **IT IS ORDERED** that:

- (1) Defendant's motion is **DENIED** with respect to Count II (specific performance);
- (2) Defendant's motion is **GRANTED in part and DENIED in part** with respect to Count III as follows:
 - (a) The motion is **GRANTED** with respect to confusion, deception, and false description claims brought under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), and Plaintiff's claims under Section 43(a) of the Lanham Act are **DISMISSED WITH PREJUDICE**;
 - (b) The motion is **DENIED** with respect to trademark dilution claims brought under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c); and
- (3) Defendant's motion is **GRANTED** with respect to Count IV (state law trademark claims), and Count IV is **DISMISSED WITH PREJUDICE**.

BY THE COURT:

/S/WENDY BEETLESTONE, J.

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